

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

SAMUEL M. HARPER, *
Plaintiff, *
v. * Civil Action No.:
UNITED STATES OF AMERICA, *
Defendant. *
* * * * *

COMPLAINT

COMES NOW the plaintiff, SAMUEL M. HARPER, by and through counsel, and for his Complaint against the defendant, UNITED STATES OF AMERICA, states as follows:

PARTIES

1. Plaintiff, SAMUEL M. HARPER, is a citizen of the Commonwealth of Virginia, residing at 17537 Plank Road, Courtland, Virginia 23837.
2. Defendant, UNITED STATES OF AMERICA (for the actions of Grant A. Boyette, an employee and agent of the United States Coast Guard), is a federal governmental entity amenable to suit in this action pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§1334(b) and 2671-2680.

JURISDICTION AND VENUE

3. This Honorable Court has jurisdiction over this action against the defendant, UNITED STATES OF AMERICA, pursuant to 28 U.S.C. §1346(b).

4. Venue is appropriate in the Eastern District of Virginia, Norfolk Division, pursuant to 28 U.S.C. §1391(b), as the place wherein a substantial part of the events or omissions giving rise to the claim occurred, namely a motor vehicle collision which occurred on Railroad Avenue in the City of Norfolk, Virginia on July 18, 2014.

5. Plaintiff has exhausted his administrative remedies, as required by 28 U.S.C. § 2675, in that the claim was instituted with the United States Coast Guard on or about October 1, 2015, by filing of a Standard Form 95, the receipt of which was acknowledged by the United States Coast Guard on October 8, 2015, and that agency subsequently denied the Plaintiff's claim on August 4, 2016. Therefore, in accordance with the FTCA, the Plaintiff files this cause of action within six months of the denial of Plaintiff's administrative claim. Copies of the Standard Form 95, October 8, 2015 acknowledgment letter, and August 4, 2016 denial letter are attached hereto as Exhibit A.

NEGLIGENCE COUNT

Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 through 5 above and further alleges:

6. On the 18th day of July, 2014, at approximately 10:00 a.m., the plaintiff, SAMUEL M. HARPER, lawfully and properly used, operated, and controlled a motor vehicle on Railroad Avenue at or near its intersection with Lagoon Road in the City of Norfolk, Virginia.

7. On the 18th day of July, 2014, at approximately 10:00 a.m., Grant A. Boyette, an employee and agent of the United States Coast Guard, an agency of the defendant, UNITED

STATES OF AMERICA, negligently and carelessly used, operated, maintained and controlled a motor vehicle on Lagoon Road at or near its intersection with Railroad Avenue in the City of Norfolk, Virginia.

8. At all relevant times on the 18th day of July, 2014, Grant A. Boyette, was acting within the scope of his office and employment with the United States Coast Guard, an agency of the defendant, UNITED STATES OF AMERICA.

9. As a result of the negligence of the defendant, UNITED STATES OF AMERICA, by and through its employee or agent, Grant A. Boyette, in failing to keep a proper lookout, failing to yield the right-of-way, and failing to maintain proper control of his vehicle, there was caused to be a violent collision. As the plaintiff approached the intersection of Lagoon Road, operating his motor vehicle in the left lane of Railroad Avenue, Grant A. Boyette, while operating his motor vehicle, accelerated from the stop sign on Lagoon Road, into the plaintiff's lane of travel on Railroad Avenue, striking the plaintiff's vehicle on its passenger side.

10. As a result of said violent collision, the plaintiff sustained serious and permanent injuries.

11. As a result of said injuries, the plaintiff was caused to suffer, and will in the future be caused to suffer, great physical pain and mental anguish.

12. As a result of said injuries, the plaintiff was caused to lose, and will in the future be caused to lose, large sums of money which he otherwise would have earned.

13. The plaintiff was caused to expend, and will in the future be caused to expend, large sums of money in an endeavor to become healed and cured from said injuries.

14. As a result of said injuries, the plaintiff was caused to be unable, and will in the future be caused to be unable, to perform his necessary and lawful affairs.

WHEREFORE, the plaintiff, SAMUEL M. HARPER, moves the Honorable Judge of the United States District Court for the Eastern District of Virginia, Norfolk Division, for a judgment and award of execution against Defendant, UNITED STATES OF AMERICA, for the sum of TWO MILLION DOLLARS (\$2,000,000.00), plus costs and interest, from the 18th day of July, 2014.

SAMUEL M. HARPER

By Counsel

/s/
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